

ORDER GRANTING PETITION FOR ANNEXATION  
TO NORTH KOOTENAI WATER DISTRICT  
Kootenai County, Idaho

Fox Hollow (The Landings LLC) Annexation

THE BOARD OF DIRECTORS (the "Board") OF NORTH KOOTENAI WATER DISTRICT (the "District") makes the following findings relative to a Petition for Annexation presented to the Board:

- (1) The District is a validly formed water district under and by virtues of the laws of the State of Idaho.
- (2) The owner(s) of certain real property located in Kootenai County, Idaho, generally adjacent to the boundaries of the District, filed a Petition for Annexation with the District which complied with the requirements of Idaho Code §42-3218(a) (a copy of the Petition and attachments thereto are attached hereto as Exhibit "A" as though fully set forth herein).
- (3) After a thorough examination and review by the Board and its consultants, it was established that the Petition was executed by the property owners of the area covered by the annexation. (The area covered by the annexation is set forth in the legal description hereto and incorporated herein by this reference as Exhibit "A" to Petition and the map attached hereto and incorporated herein by this reference as Exhibit "B" to Petition).
- (4) The Board set a public hearing on the Petition for Annexation.
- (5) The public hearing was set for December 3, 2009, with notice of this hearing ("Notice") given by both publication and mailing. Notice was published in the *Coeur d'Alene Press* on November 17 and November 24, 2009. (A copy of the Notice and Affidavit of Publication are attached hereto and incorporated herein by this reference as Exhibit "B".) At this public hearing the Board, its consultants and one of the proponents of the annexation were prepared to respond to any questions or issues raised.
- (6) The Board has assumed, pursuant to the provisions of Idaho Code Section 42-3218(b) that the failure of any other individuals to show cause in writing as to the annexation of the property described in Exhibit "A" to Petition, is deemed as their assent.
- (7) The Board, after consideration of the records and files herein and the public health and safety of the current and future residents and businesses in the District and the area proposed for annexation, find it in the best interests of the District its residents and those who are in the area to be annexed into the District, to annex the area covered by the Petition.
- (8) Subject to the conditions placed on the annexation by the District, the real property described in the map attached hereto as Exhibit "B" to Petition, and legally described in

Exhibit "A" to Petition attached hereto is hereby incorporated into the District as of the date this Order is recorded with the County Recorder.

(9) The Secretary of the District is hereby directed to file this Order in the records of the District and transmit this Order and all the attachments thereto to the appropriate Kootenai County offices for filing pursuant to Idaho Code §42-3218(b).

(10) Petitioner(s) agree to pay for their share of a New Facility Plan or Facility Plan Amendment and Preliminary Engineering Report as required by the Idaho Department of Environmental Quality.

(11) Conditions: This annexation is conditioned upon completion of the following:

That the petitioners property owners will complete and pay for certain improvements to the specifications and requirements of the District (at their sole discretion) in order to provide service to the property included in this annexation.

Should it be later determined that one or more of the above conditions has not been satisfactorily achieved, the Board shall have the right to remove or deannex this property from the boundaries of the District.

This Order is adopted by a majority vote of the Board of Directors at a meeting December 17, 2009.

NORTH KOOTENAI WATER DISTRICT

By: *Thomas C.*  
Chairman, Board of Directors

ATTEST:

*Thomas C.*  
Secretary



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**Exhibits**

- A. Petition requesting annexation (including Exhibits):**
  - Exhibit A - Notice of Public Hearing**
  - Exhibit B - Legal Description of real property annexed into District**
  - Exhibit C - Map of the area to be annexed**
- B. Affidavit of Publication of Public Hearing**

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## **Exhibit A**

Petition Requesting Annexation

PETITION FOR ANNEXATION  
NORTH KOOTENAI WATER DISTRICT  
KOOTENAI COUNTY, IDAHO

COMES NOW Petitioner(s):

The Landings, LLC

*Print Name*

and petitions the Board of Directors of North Kootenai Water District ("District") as follows:

1. Petitioners are the owners of the real property situated within the County of Kootenai, State of Idaho, particularly described in Exhibit "A", attached hereto, and incorporated herein by reference.
2. Petitioners are desirous that the above-described property be included in, made or part of, and be served with water system improvements in North Kootenai Water District, Kootenai County, Idaho.
3. Petitioners request that, in accordance with the provisions of Section 42-3218, Idaho Code, notice of the filing of this petition be given and published in the official newspaper of the District in Kootenai County, Idaho, said notice to give all persons interested an opportunity to appear and show cause in writing, if any they have, why this petition should not be granted at the hearing, time and place to be set by this Board; that further, assuming that no valid objections are made to the inclusion of the above-described property within the boundaries of the District, the Board enter its order that the above-described property be included within the boundaries of the District, and that such order be recorder and filed with Kootenai County, Idaho and filed with the State of Idaho Tax Commission.

That Petitioners are aware that, as a condition of annexation, the District may require that the land described in this petition be subjected to the following requirements:

- (a) The Petitioners shall pay for the actual costs incurred by the District for District administration, engineering, legal, inspection, and preparation of any necessary documents that are required by the District for annexation of the property. Such District costs shall include, but are not limited to, preparation of conditions of annexation, any needed water system master planning, design consultations, plan reviews, and final approval of the Petitioner's construction plans and specifications for water facilities.
- (b) The Petitioner shall be responsible for all water facilities that will be necessary to serve the Petitioner's annexed property. These water facilities will include those required within the annexed property as well as all necessary water facilities needed to extend water service from the District's existing facilities to those proposed to serve the annexed property. The District shall have the right to dictate where and how the Petitioner's water

facilities that serve his annexed area may be connected to the District's water facilities. Upon completion of installation and approval by the District of all water facilities the Petitioner shall dedicate such facilities to the District.

(c) The District shall not be obligated to serve any property annexed within the District where the District has determined there is not sufficient water system capacity to adequately serve such property. There shall arise no right to service or obligation by the District for service upon annexation and as among other properties annexed to the District, and there shall be no priority for service until each water connection permit has been obtained. If construction is not completed within two (2) years from the date the water connection permit was issued, any priority for service shall become null and void. The District may extend the time for completion upon a request by the property owner and a showing of good cause why such extension should be granted.

(d) At the time each water connection permit is issued and prior to connection of the water system to each private facility, a service availability fee of no less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) per lot or equivalent dwelling unit shall be paid to repay the District for the cost of developing the District's core water collector lines, and treatment facilities including the debt retirement of such facilities committed to prior to inclusion of the annexed property into the District. Such service availability fees may increase at such time as the District determines such fees are not adequate to reimburse the District for the cost incurred in developing the water system. The service availability fee shall be in addition to actual costs required for connecting to the actual main water line.

(e) And such other conditions as the District may prescribe.

Petitioner: The Landings, LLC

Address: 201 West Lakeshore Drive, Coeur d'Alene, ID 83814

Signature: \_\_\_\_\_

STATE OF IDAHO )

) ss.

County of Kootenai )

On this 28<sup>th</sup> day of October, 2009, before me, Candace A. Smetana, a Notary Public in and for the State of Idaho, personally appeared Rick Gunther, he/she is known or identified to me (or proved to me on the oath of (in person)) to be the owner/manager (officer title) of the Landings, LLC, a limited liability company, one of the partners in the partnership of the Landings, LLC, a limited liability partnership, and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, and that such corporation executed the same in said partnership name.



Candace A. Smetana  
Notary Public for Idaho  
Print Name: Candace A. Smetana  
My commission expires: January 2, 2013

**Exhibit A to Petition Requesting Annexation  
Legal Description**



**FOX HOLLOW  
LEGAL DESCRIPTION OF PROPERTY  
TO BE ANNEXED INTO NKWD**

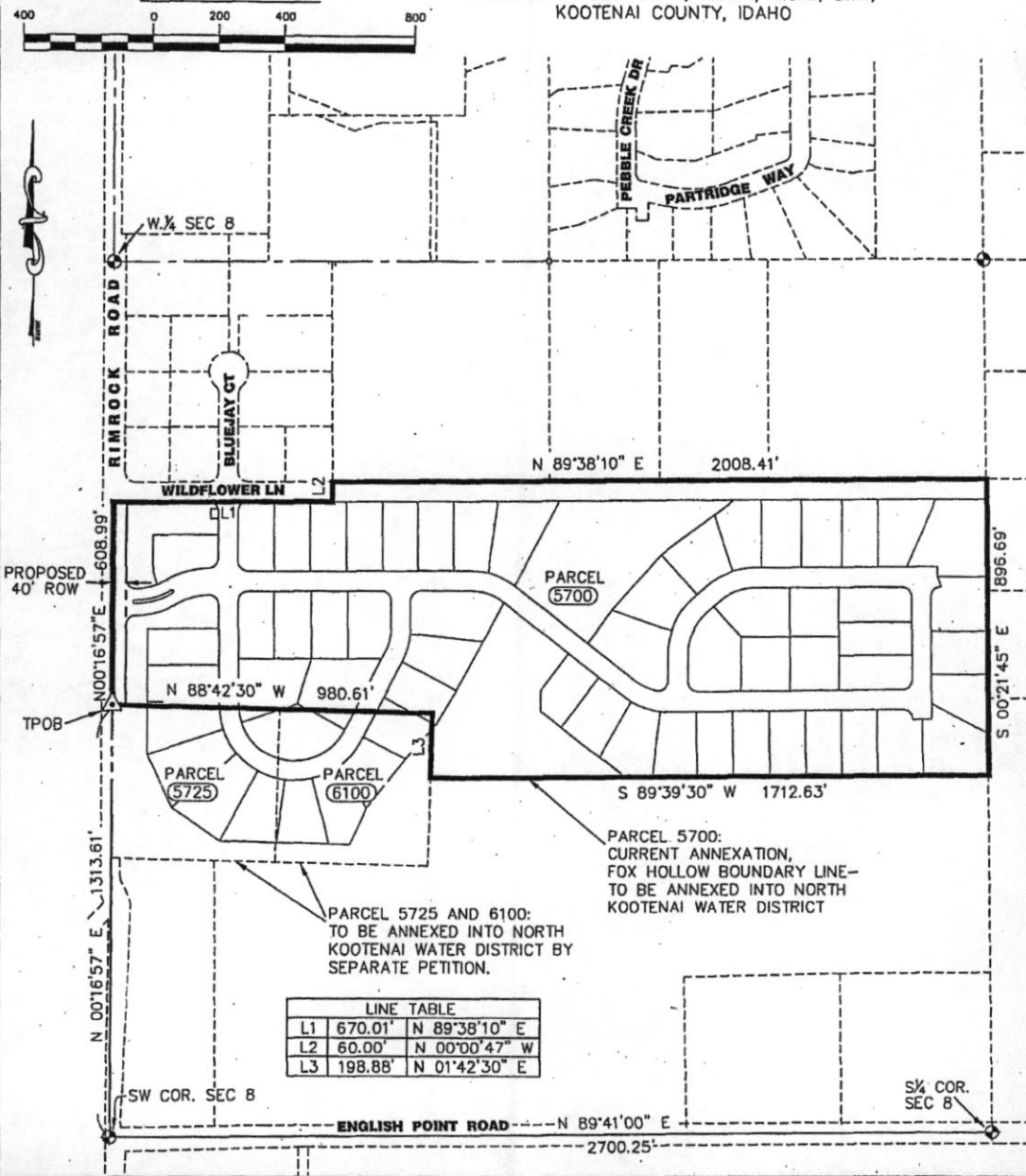
A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 51 NORTH, RANGE 3 WEST, B.M., KOOTENAI COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS (THE BASIS OF BEARING FOR THIS DESCRIPTION BEING RECORD OF SURVEY, BOOK 18, PAGE 108, RECORDS OF KOOTENAI COUNTY):

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 8;  
THENCE ALONG THE WEST BOUNDARY LINE OF SAID SECTION 8, N 00°16'57" E,  
1313.61 FEET TO THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;  
THENCE CONTINUING ALONG THE SAID WEST BOUNDARY LINE, N 00°16'57" E, 608.99  
FEET TO THE SOUTH LINE OF WILDFLOWER LANE;  
THENCE LEAVING THE SAID WEST BOUNDARY LINE, N 89°38'10" E, 670.01 FEET  
ALONG THE SOUTH LINE OF WILDFLOWER LANE;  
THENCE LEAVING THE SOUTH LINE OF WILDFLOWER LANE, N 00°00'47" W, 60.00 FEET;  
THENCE N 89°38'10" E, 2008.41 FEET TO THE NORTHEAST CORNER OF THE SOUTH  
HALF OF THE NORTHEAST QUARTER OF THE SAID SOUTHWEST QUARTER OF  
SECTION 8;  
THENCE ALONG THE EAST BOUNDARY LINE OF THE SAID SOUTHWEST QUARTER  
OF SECTION 8, S 00°21'45" E, 896.69 FEET;  
THENCE LEAVING THE SAID EAST BOUNDARY LINE OF THE SAID SOUTHWEST  
QUARTER OF SECTION 8, S 89°39'30" W, 1712.63 FEET;  
THENCE N 01°42'30" E, 198.88 FEET;  
THENCE N 88°42'30" W, 980.61 FEET TO THE TRUE POINT OF BEGINNING;  
CONTAINING APPROXIMATELY 49.50 ACRES, MORE OR LESS.

**Exhibit B to Petition Requesting Annexation  
Map**

NORTH KOOTENAI WATER DISTRICT  
ANNEXATION BY DISTRICT  
COURT ORDER—CASE # \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_

FOX HOLLOW  
PENDING RECORDING, RECORD OF KOOTENAI COUNTY  
NORTH KOOTENAI WATER DISTRICT ANNEXATION EXHIBIT  
PORTION OF SECTION 8, T.51N., R.3W., B.M.,  
KOOTENAI COUNTY, IDAHO



TITLE: FOX HOLLOW, PARCEL 5700  
NORTH KOOTENAI WATER DISTRICT  
ANNEXATION EXHIBIT

SCALE: 1"=400'

DATE: 10/15/09

FILE: R245-100.dwg

**FRAME & SMETANA, PA**  
Consulting Engineers  
603 North 4th Street, Coeur d'Alene, Idaho, 83814  
Ph. (208)664-2121/Fax: 765-5502/ Email: smetana@adolphianet

**ES**  
SHEET  
1 OF 1

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## **Exhibit B**

**Affidavit of Publication of Notice of Hearing and Notice of Hearing**

NOTICE OF PUBLIC HEARING  
OF ANNEXATION OF PROPERTY

NORTH KOOTENAI WATER DISTRICT  
Kootenai County, Idaho

Fox Hollow (The Landings LLC) Annexation

The Board of Directors (the "Board") of the North Kootenai Water District (the "District") will be holding a public hearing on the annexation of property into the District. The public hearing will be held as follows:

Day: Thursday

Date: December 3, 2009

Time: 12:30 p.m.

Location: 1841 W. Hayden Ave., Hayden, ID 83835

The annexation hearing is based upon petitions filed. The Board has received a petition signed by Rick Gunther, Owner/Manager, dated October 26, 2009, ("Fox Hollow (The Landings LLC) property"). A copy of the Petition and a description of the area covered by the Petition can be obtained from the District by sending a request to:

North Kootenai Water District  
P.O. Box 2290  
Hayden, ID 83835

All persons interested in appearing at the time and place of the hearing may show cause in writing why the Petition for Annexation should not be granted. The Board shall consider, at the hearing, any objection presented in writing. The failure of any person to show cause in writing shall be deemed as an assent to include their property within the boundaries of the District.


Anyone wishing to provide written comments, who is unable to attend the hearing, may provide them in advance of the hearing by sending them, first class mail, postage pre-paid, to:

North Kootenai Water District  
Attn: Secretary  
P.O. Box 2290  
Hayden, ID 83835

Failure to have your written comments to the Board in advance of the public hearing means they will not be considered by the Board at the public hearing.

DATED this 5th day of November, 2009.

NORTH KOOTENAI WATER DISTRICT,  
Kootenai County, Idaho

By:   
Its: Secretary



February 1, 2011

Amy N. Allen  
Paralegal  
D 509.241.1508  
F 509.456.0146  
amy.allen@klgates.com

Mr. Jeff Servatius  
Idaho State Tax Commission  
PO Box 36  
Boise, ID 83722-0036

Re: Recorded Order Granting Petition for Annexation to North Kootenai Water District –  
Fox Hollow (the Landings LLC) Annexation

Dear Mr. Servatius:

Enclosed is a recorded Order Granting Petition for Annexation to North Kootenai Water District.

Please do not hesitate to contact me if you have any questions or need anything further.  
Thank you.

Very truly yours,



Amy N. Allen  
Paralegal